~~Indicates Matter Stricken~~

Indicates New Matter

COMMITTEE REPORT

April 24, 2013

**H. 3149**

Introduced by Rep. Tallon

S. Printed 4/24/13--H.

Read the first time January 8, 2013.

**THE COMMITTEE ON JUDICIARY**

To whom was referred a Bill (H. 3149) to amend Section 40‑54‑10, Code of Laws of South Carolina, 1976, relating to definitions concerning dealers in precious metals, so as to modify the term, etc., respectfully

**REPORT:**

That they have duly and carefully considered the same and recommend that the same do pass with amendment:

Amend the bill, as and if amended, by deleting all after the enacting words and inserting:

/ SECTION 1. Section 40‑54‑10(7) of the 1976 Code is amended to read:

“(7) ‘Purchase’ means the acquisition, including by means of being pawned to a dealer, of precious metal or precious or semiprecious stones or gems or both precious metal and precious or semiprecious stones or gems for a consideration of cash, goods, or other precious metals or precious or semiprecious stones or gems or both precious metals and precious or semiprecious stones or gems. Trade‑ins are covered by the provisions of this chapter unless the item traded was purchased directly from the dealer allowing the trade.”

SECTION 2. Section 40‑54‑20 of the 1976 Code is amended to read:

“Section 40‑54‑20. (A) No dealer as defined herein shall operate in the State of South Carolina unless he first obtains a permit to engage in the business of purchasing precious metals from the local law enforcement agency and operates only from a permanent place of business. No dealer shall operate upon public property nor from a vehicle, flea market, hotel room ~~or~~, residential dwelling, similar temporary location, or sub‑leased space with a lease term of less than one year.

(B) The form of the permit to engage in the business of purchasing precious metals shall be prescribed by the State Law Enforcement Division and all applicants for a permit under this chapter, whether a person, firm or corporation, shall file a written sworn application signed by the applicant if an individual, by all the partners if a partnership, and by the president if a corporation, with the local law enforcement agency showing:

(~~a~~1) The names of the persons managing, supervising or conducting the applicant’s business in any places proposed to carry on business; the addresses of such persons; the driver’s license number of such persons; the capacity in which such persons will act, that is, whether as proprietor, agent or otherwise; the name and address of the person, firm or corporation for whose account the business will be carried on, if any; and if a corporation, the state of incorporation.

(~~b~~2) The permanent places of business and other places in the State of South Carolina where it is proposed to carry on the applicant’s business and the places where the applicant has carried on the business of purchasing precious metals within one year preceding the date of such application.

(~~c~~3) Such other reasonable information as to the identity of the persons managing, supervising or conducting the applicant’s business as the local law enforcement agency may deem proper to fulfill the purposes of this chapter.

(~~d~~4) A statement of the nature, character and quality of the precious metals to be purchased in the business.

(C) Upon receipt of such application for a permit, the local law enforcement agency shall cause an investigation of such person’s business and personal background to be made. Such investigation shall be limited to information pertinent to the purpose of this chapter. If, as a result of the investigation, the background is found to be unsatisfactory, the permit shall be denied. The permit shall be denied or issued within thirty days from the date of application. Upon the issuance of the permit, the local law enforcement agency shall notify the State Law Enforcement Division of the locations where the permit holder proposes to carry on his business. The permit issued under this chapter shall be valid for a period of one year from the date issued and the annual fee shall be fifty dollars to provide for the administrative costs. If the dealer intends to operate from more than one location within the State, then separate permits shall be issued for each place of business; provided, however, only one annual fee shall be collected.

(D) The permits under this chapter shall be in addition to and not in lieu of other business licenses.

(E) A permit may be denied, suspended or revoked at any time if the local law enforcement agency discovers that the information on the application is inaccurate or the dealer or applicant does not comply with the requirements of this act. The permit holder shall notify, within ten days, the local law enforcement agency if any substantive changes occur in the permanent place of business in the persons managing, supervising or conducting the applicant’s business, or in the places the permit holder intends to do business.”

SECTION 3. Section 40‑54‑40 of the 1976 Code is amended to read:

“Section 40‑54‑40. (A)(1) Every dealer shall keep a book in which must be written at the time of any purchase of precious metal or precious or semiprecious stones or gems made from the general public, whether in bulk or manufactured form, the date of purchase, amount of money or other property exchanged for the metal, stones, or gems, the name, sex, race, age, address, and driver’s license number of the person selling the items, articles, or things bought, and the number and nature and brand name of the items, articles, or things. Descriptions must include size, weight, patterns, or engraving or any unusual identification marks.

(2) If the seller does not have a driver’s license, some other positive identification bearing his photograph and an identifying number may be substituted including:

(a) another form of identification containing a photograph and issued by the Department of Motor Vehicles;

(b) a passport;

(c) military identification containing a photograph and issued by the United States federal government; or

(d) a South Carolina voter registration card containing a photograph pursuant to Section 7‑5‑675.

(3) If the seller cannot produce a driver’s license or other positive identification, the dealer may not buy any merchandise from him. Every dealer shall, at the time of purchase, obtain the signature of the seller as part of the recording of the transaction.

(B) The record book must be kept for three years and at all reasonable times must be open to the inspection of any judicial or law enforcement officials or their designees.

(C) The local law enforcement agency may not reveal a seller’s identity supplied under this section except to other law enforcement agencies and prosecuting officials or pursuant to the valid order of a court or in the course of any criminal investigation or prosecution.”

SECTION 4. Section 40‑54‑50 of the 1976 Code is amended to read:

“Section 40‑54‑50. (A) No dealer may purchase any precious metal from a minor unless accompanied by his parent or guardian with appropriate identification.

(B) All precious metals, except coins, purchased by a dealer ~~shall~~ must be held by the dealer at his permanent place of business or ~~at another suitable location in the~~ within the county of purchase in this State ~~of South Carolina~~ without being resold, melted, or altered in any manner, for a period of ~~seven~~ fourteen days from the purchase date. This fourteen‑day period begins on the date of purchase. All goods required to be held under this section ~~shall~~ must at all reasonable times be open to inspection by any law enforcement agency.

(C) Coins purchased by a dealer must be held by the dealer at his permanent place of business or at another suitable location in this State without being resold, melted, or altered in any manner for a period of seven days from the purchase date. All goods required to be held under this section must at all reasonable times be open to inspection by any law enforcement agency.”

SECTION 5. Section 40‑54‑80 of the 1976 Code is amended to read:

“Section 40‑54‑80. (A) Any dealer wilfully violating the provisions of this chapter ~~shall be deemed~~ is guilty of a misdemeanor and upon conviction~~,~~ for a first offense~~, shall~~ must be fined not more than five hundred dollars ~~or~~, imprisoned for not more than ninety days, or both. A second offense conviction ~~shall be~~ is punishable by a fine of not more than two thousand dollars ~~or~~, imprisonment for not more than one year, or both. A third or subsequent offense conviction ~~shall be~~ is punishable by a fine of not more than five thousand dollars ~~or~~, imprisonment for not more than three years, or both. A dealer convicted of a second offense ~~shall be~~ is ineligible for a permit to conduct business in precious metals in this State for at least two years and a dealer convicted of a third or subsequent offense ~~shall not be eligible~~ is ineligible for a permit for a least five years.

(B)(1) In addition to the provisions of subsection (A), any dealer who wilfully makes a purchase with an invalid, suspended, or revoked license as a dealer of precious metals is guilty of a misdemeanor and upon conviction for a:

(a) first offense must be fined not more than five hundred dollars, imprisoned for not more than ninety days, or both;

(b) second offense must be fined not more than two thousand dollars, imprisoned for not more than one year, or both; and

(c) third offense must be fined not more than five thousand dollars, imprisoned for not more than three years, or both.

(2)(a) A dealer convicted of a second offense is ineligible for a permit to conduct business in precious metals in this State for at least two years; and

(b) a dealer convicted of a third offense is ineligible for a permit to conduct business in precious metals in this State for at least five years.

(3) A penalty under this section is cumulative to penalties in items (1) and (2).”

SECTION 6. Section 40‑54‑100(1) of the 1976 Code is amended to read:

“(1) a transaction between dealers of precious metals where the selling dealer has already complied with the ~~seven day~~ applicable holding period, nor shall they apply to transactions between coin dealers and coin collectors occurring at regularly scheduled numismatic conventions. However, this exemption only applies to transactions between coin dealers and coin collectors occurring at regularly scheduled numismatic conventions for the purchase of coins.”

SECTION 7. The repeal or amendment by this act of any law, whether temporary or permanent or civil or criminal, does not affect pending actions, rights, duties, or liabilities founded thereon, or alter, discharge, release or extinguish any penalty, forfeiture, or liability incurred under the repealed or amended law, unless the repealed or amended provision shall so expressly provide. After the effective date of this act, all laws repealed or amended by this act must be taken and treated as remaining in full force and effect for the purpose of sustaining any pending or vested right, civil action, special proceeding, criminal prosecution, or appeal existing as of the effective date of this act, and for the enforcement of rights, duties, penalties, forfeitures, and liabilities as they stood under the repealed or amended laws.

SECTION 8. This act takes effect upon approval by the Governor. /

Renumber sections to conform.

Amend title to conform.

F. GREGORY DELLENEY, JR. for Committee.

**A** **BILL**

TO AMEND SECTION 40‑54‑10, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO DEFINITIONS CONCERNING DEALERS IN PRECIOUS METALS, SO AS TO MODIFY THE TERM “PURCHASE”; TO AMEND SECTION 40‑54‑40, RELATING TO THE REQUIREMENT THAT A SELLER OF PRECIOUS METALS PROVIDE CERTAIN POSITIVE IDENTIFICATION BEARING HIS PHOTOGRAPH, SO AS TO PROVIDE THIS REQUIREMENT MAY BE SATISFIED BY CERTAIN IDENTIFICATION ISSUED BY THE STATE OR THE UNITED STATES; TO AMEND SECTION 40‑54‑50, RELATING TO A MANDATORY PERIOD FOR WHICH A DEALER IN PRECIOUS METALS MUST HOLD PRECIOUS METALS HE PURCHASES BEFORE HE MAY SELL THE PRECIOUS METALS, SO AS TO INCREASE THE MANDATORY PERIOD AND SPECIFY LOCATION FOR HOLDING THE METALS; AND TO AMEND SECTION 40‑54‑80, RELATING TO PENALTIES, SO AS TO INCREASE PENALTIES FOR THE PURCHASE OF PRECIOUS METALS BY A DEALER WITH A REVOKED LICENSE.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Section 40‑54‑10(7) of the 1976 Code is amended to read:

“(7) ‘Purchase’ means the acquisition, including by means of being pawned to a dealer, of precious metal or precious or semiprecious stones or gems or both precious metal and precious or semiprecious stones or gems for a consideration of cash, goods, or other precious metals or precious or semiprecious stones or gems or both precious metals and precious or semiprecious stones or gems. Trade‑ins are covered by the provisions of this chapter unless the item traded was purchased directly from the dealer allowing the trade.”

SECTION 2. Section 40‑54‑40 of the 1976 Code is amended to read:

“Section 40‑54‑40. (A)(1) Every dealer shall keep a book in which must be written at the time of any purchase of precious metal or precious or semiprecious stones or gems made from the general public, whether in bulk or manufactured form, the date of purchase, amount of money or other property exchanged for the metal, stones, or gems, the name, sex, race, age, address, and driver’s license number of the person selling the items, articles, or things bought, and the number and nature and brand name of the items, articles, or things. Descriptions must include size, weight, patterns, or engraving or any unusual identification marks.

(2) If the seller does not have a driver’s license, some other positive identification bearing his photograph and an identifying number may be substituted including:

(a) another form of identification containing a photograph and issued by the Department of Motor Vehicles;

(b) a passport;

(c) military identification containing a photograph and issued by the United States federal government; or

(d) a South Carolina voter registration card containing a photograph pursuant to Section 7‑5‑675.

(3) If the seller cannot produce a driver’s license or other positive identification, the dealer may not buy any merchandise from him. Every dealer shall, at the time of purchase, obtain the signature of the seller as part of the recording of the transaction.

(B) The record book must be kept for three years and at all reasonable times must be open to the inspection of any judicial or law enforcement officials or their designees.

(C) The local law enforcement agency may not reveal a seller’s identity supplied under this section except to other law enforcement agencies and prosecuting officials or pursuant to the valid order of a court or in the course of any criminal investigation or prosecution.”

SECTION 3. Section 40‑54‑50(B) of the 1976 Code is amended to read:

“(B) All precious metals purchased by a dealer ~~shall~~ must be held by the dealer at his permanent place of business or ~~at another suitable location in the~~ within the county of purchase in this State ~~of South Carolina~~ without being resold, melted, or altered in any manner, for a period of ~~seven~~ thirty days from the purchase date. This thirty‑day period begins on the date of purchase. All goods required to be held under this section ~~shall~~ must at all reasonable times be open to inspection by any law enforcement agency.”

SECTION 4. Section 40‑54‑80 of the 1976 Code is amended to read:

“Section 40‑54‑80. (A) Any dealer violating the provisions of this chapter ~~shall be deemed~~ is guilty of a misdemeanor and upon conviction~~,~~ for a first offense~~, shall~~ must be fined not more than five hundred dollars ~~or~~, imprisoned for not more than ninety days, or both. A second offense conviction ~~shall be~~ is punishable by a fine of not more than two thousand dollars ~~or~~, imprisonment for not more than one year, or both. A third or subsequent offense conviction ~~shall be~~ is punishable by a fine of not more than five thousand dollars ~~or~~, imprisonment for not more than three years, or both. A dealer convicted of a second offense ~~shall be~~ is ineligible for a permit to conduct business in precious metals in this State for at least two years and a dealer convicted of a third or subsequent offense ~~shall not be eligible~~ is ineligible for a permit for a least five years.

(B)(1) In addition to the provisions of subsection (A), any dealer who makes a purchase with an invalid, suspended, or revoked license as a dealer of precious metals is guilty of a misdemeanor and upon conviction for a:

(a) first offense must be fined not more than five hundred dollars, imprisoned for not more than ninety days, or both;

(b) second offense must be fined not more than two thousand dollars, imprisoned for not more than one year, or both; and

(c) third offense must be fined not more than five thousand dollars, imprisoned for not more than three years, or both.

(2)(a) A dealer convicted of a second offense is ineligible for a permit to conduct business in precious metals in this State for at least two years; and

(b) a dealer convicted of a third offense is ineligible for a permit to conduct business in precious metals in this State for at least five years.

(3) A penalty under this section is cumulative to penalties in items (1) and (2).”

SECTION 5. The repeal or amendment by this act of any law, whether temporary or permanent or civil or criminal, does not affect pending actions, rights, duties, or liabilities founded thereon, or alter, discharge, release or extinguish any penalty, forfeiture, or liability incurred under the repealed or amended law, unless the repealed or amended provision shall so expressly provide. After the effective date of this act, all laws repealed or amended by this act must be taken and treated as remaining in full force and effect for the purpose of sustaining any pending or vested right, civil action, special proceeding, criminal prosecution, or appeal existing as of the effective date of this act, and for the enforcement of rights, duties, penalties, forfeitures, and liabilities as they stood under the repealed or amended laws.

SECTION 6. This act takes effect upon approval by the Governor.

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